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HOUSE OF REPRESENTATIVES

REPORT
110–581

UNIVERSAL RIGHT TO VOTE BY MAIL ACT OF 2008

APRIL 14, 2008.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BRADY of Pennsylvania, from the Committee on House Administration, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 281]

[Including cost estimate of the Congressional Budget Office]

The Committee on House Administration, to whom was referred the bill (H.R. 281) to amend the Help America Vote Act of 2002 to allow all eligible voters to vote by mail in Federal elections, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Universal Right to Vote by Mail Act of 2008".

SEC. 2. FINDINGS.

Congress finds the following:

(1) An inequity of voting rights exists in the United States because voters in some States have the universal right to vote by mail while voters in other States do not.

(2) Many voters often have work, family, or other commitments that make getting to polls on the date of an election difficult or impossible.

(3) Allowing voters to vote by mail can lead to increased voter participation.

(4) Voting by mail is more convenient for many voters.

(5) Voting by mail gives voters more time to consider their choices.

(6) Studies show that an overwhelming majority of voters prefer voting by mail as an alternative to going to the polls.

(7) No evidence exists suggesting the potential for fraud in absentee balloting is greater than the potential for fraud by any other method of voting.

69–006

(8) 28 States currently allow universal absentee voting, which permits any voter to request a mail-in ballot without providing a reason for the request.

SEC. 3. PROMOTING ABILITY OF VOTERS TO VOTE BY MAIL IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Subtitle A of title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by inserting after section 303 the following new section:

"SEC. 303A. PROMOTING ABILITY OF VOTERS TO VOTE BY MAIL.

"(a) IN GENERAL.—If an individual in a State is eligible to cast a vote in an election for Federal office, the State may not impose any additional conditions or requirements on the eligibility of the individual to cast the vote in such election by mail, except as required under subsection (b) and except to the extent that the State imposes a deadline for requesting the ballot and related voting materials from the appropriate State or local election official and for returning the ballot to the appropriate State or local election official.

"(b) REQUIRING SIGNATURE VERIFICATION.—A State may not accept and process an absentee ballot submitted by any individual with respect to an election for Federal office unless the State verifies the identification of the individual by comparing the individual's signature on the absentee ballot with the individual's signature on the official list of registered voters in the State, in accordance with such procedures as the State may adopt.

"(c) EFFECTIVE DATE.—A State shall be required to comply with the requirements of this section with respect to the regularly scheduled general elections for Federal office held in November 2010 and each succeeding election for Federal office.".

(b) CONFORMING AMENDMENT RELATING TO ENFORCEMENT.—Section 401 of such Act (42 U.S.C. 15511) is amended by striking "and 303" and inserting "303, and 303A".

(c) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 303 the following new item:

"Sec. 303A. Promoting ability of voters to vote by mail.".

PURPOSE OF THE LEGISLATION

Since the time of the Civil War, the absentee ballot has allowed voters who cannot make it to the polls a chance to exercise their right to vote. States have historically allowed absentee voting for such reasons as absence, illness, advanced age, religious obligation or military service.

Although these reasons or "excuses" for requesting an absentee ballot are logical, they are not the only reasons why a voter might not be able to vote at the polls. For example, many voters today work long hours, commute great distances or have childcare or other obligations that make voting in person difficult or impossible. In addition, during high turnout elections, long lines at the polls can prevent voters from voting. No voter should be prohibited from voting simply because he or she cannot be at the polls at a certain time.

Moreover, many states' acceptable excuses are hard to define and even harder to verify. For instance, some states use "absence" to mean out of the precinct, while others define it as out of the city, county or community. Some states specify acceptable and unacceptable reasons for that absence; others do not. Some states say a voter must be absent during the entire time the polls are open; others do not. Illness is also difficult to limit in any useful way. Some states only permit ill voters to vote absentee if they cannot get to polls without assistance from another person; others do not. Drawing lines between medical conditions is not easy and does not serve a useful purpose.

In addition, to verify excuses, some states require voters to spend time and money acquiring a notary signature or doctor's note. Other states infringe upon voters' privacy by requiring them to de-

tail vacation plans, medical conditions or employment information in order to request an absentee ballot. It is of questionable necessity that any state should require such personal, private information. Releasing this information does not increase security in any meaningful way and only serves to increase the burden on elections officials. Arduous or intrusive verification requirements may deter voters from requesting absentee ballots and consequently from voting altogether.

In 1967, Kansas became the first state to offer "No Excuse" absentee voting, a process by which any eligible voter could request an absentee or mail ballot for any reason. Over time, No Excuse absentee voting has become popular with both elections officials and voters. Currently 28 states offer No Excuse absentee voting. No state has reverted back.

Voters like No Excuse absentee voting because it gives them peace of mind knowing that they will be able to vote no matter what comes up on Election Day. Many also appreciate the opportunity to take the time to study their choices and appreciate not feeling rushed in a voting booth.

In states with No Excuse absentee voting, between 20 and 45 percent of voters generally choose to vote absentee. Elections officials also like No Excuse absentee voting because they do not have to check excuses on a case-by-case basis, which gives them more time to process ballots, and it relieves some of the strain at the polls on Election Day.

A recent study by the Election Assistance Commission found that 65 percent of Americans said that all voters should have the option to vote absentee.

While 28 states allow their voters to vote absentee for any reason, 22 states, the District of Columbia and all of the territories still restrict many voters from obtaining absentee ballots by requiring excuses. Thus, there exists a great inequity across the nation in voting opportunities because some voters can vote at any time (within the absentee period) while others must vote only when the polls are open (either on Election Day or through early voting). Voters in "No Excuse" states have a significant advantage over those in the other states and territories in federal elections.

Although there are indications that individual states will continue to remove absentee conditions and that eventually all will be "No Excuse" states, there is no reason voters should lose opportunities in the meantime.

The intent of H.R. 281 is to maximize voter opportunity by allowing all voters in the United States to have the option to vote by absentee ballot. H.R. 281 ensures that there will be no more barriers to absentee voting than there are to poll voting. It prevents states from adding restrictions to absentee eligibility that they do not add for poll voting eligibility. For example, if a notary signature is not required to vote at the polls, it would not be required to vote by mail. Or, if voters of all ages can vote at the polls, voters of all ages can vote by absentee.

Importantly, this bill does not force any voter to vote by mail or deprive voters of the opportunity of going to the polls to vote. Its intention is only to provide voters the choice of using an absentee ballot subject to the same eligibility requirements as in-person voting.

While this bill removes voters' barriers to absentee voting, it does not impose upon a state's right to administer elections. It does not interfere with the request or receipt deadlines or how a state processes its absentee ballots.

In response to concerns that the bill did not give states enough time to prepare for processing the likely increased number of absentee ballots, the Committee accepted an amendment to change the date of enactment from 2008 to 2010. This change should give elections officials ample time to adjust. Since all states currently have secure systems to process absentee ballots, this bill does not ask elections officials to do anything new. It merely expands the pool of voters eligible to vote by absentee.

Because absentee voting is so popular in current No Excuse states, the Committee encourages officials in states that currently have restrictions to learn from the best practices in states that currently process large numbers of absentee ballots. One such practice is the offering of "Permanent Absentee" status to voters. This allows the state to automatically send ballots by mail to voters who have indicated they want to vote absentee every time. This practice saves the voters the time of requesting a ballot each time and results in elections officials saving time and money because of decreased data entry costs.

Finally, in order to ensure that states continue to make absentee voting as free from fraud as possible, the Committee accepted an amendment to require elections officials to use signature checks. Signature checks by trained professionals have proven to be the most effective way to verify that an absentee ballot was actually voted by the correct voter. States use this method currently and should continue to do so to enhance ballot security.

SECTION-BY-SECTION SUMMARY OF LEGISLATION

Section 1. Short title

(a) Entitles bill "Universal Right to Vote by Mail Act of 2007"

Section 2. Findings

(a) Finds that an inequality of voting rights exists because voters in some States have the universal right to vote by mail while voters in other States do not.

(b) Finds that many voters often have work, family or other commitments that make getting to polls on the date of an election difficult or impossible.

(c) Finds that allowing voters to vote by mail can lead to increased voter participation.

(d) Finds that voting by mail is more convenient for many voters.

(e) Finds that voting by mail gives voters more time to consider their choices.

(f) Finds that studies show that an overwhelming majority of voters prefer voting by mail as an alternative to going to polls.

(g) Finds that no evidence exists suggesting that the potential for fraud in absentee balloting is greater than the potential for fraud by any other method of voting.

(h) Finds that 28 states currently allow for universal absentee voting.

Section 3. Promoting ability of voters to vote by mail in Federal elections

(a) Amends the Help America Vote Act by adding new subsection 303A.

(b) Subsection 303A provides that a State may not impose any additional conditions or requirements on the eligibility of an individual to cast his or her vote in such election by mail, except to the extent that the State imposes a deadline for requesting the ballot or returning the ballot to the appropriate State or local election official.

(c) Makes this section effective with respect to federal elections held in 2010 and thereafter.

(d) Requires States to verify a voter's signature before it accepts and processes an absentee ballot submitted by an individual.

COMMITTEE CONSIDERATION OF THE LEGISLATION

INTRODUCTION AND REFERRAL

On January 5, 2007, Mrs. Davis of California (for herself, Mrs. Jones of Ohio, Mr. Larsen of Washington, Mr. Schiff, Mrs. Capps, Ms. Hooley, Ms. Woolsey, and Mr. McDermott) introduced H.R. 281; which was referred to the Committee on House Administration.

HEARINGS

On October 16, 2007, the Committee on House Administration Subcommittee on Elections held a hearing entitled "Expanding and Improving Opportunities to Vote by Mail or Absentee." The following members were present at the hearing: Subcommittee Chair Zoe Lofgren, Reps. Charles A. Gonzalez, Susan A. Davis, Artur Davis and Kevin McCarthy.

Witnesses

Panel One:

1. The Honorable Susan A. Davis, Congresswoman (CA–53)

Panel Two:

1. Commissioner Ruth Goldway, Postal Rate Commission
2. The Honorable Deborah L. Markowitz, Secretary of State of Vermont
3. Mr. Joe Holland, County Clerk, Recorder and Assessor, Santa Barbara County, CA
4. Mr. Jonathan Bechtle, Director of Evergreen Freedom Foundation's Citizenship and Governance Center

On October 22, 2007, the Committee on House Administration Subcommittee on Elections continued its hearing entitled "Expanding and Improving Opportunities to Vote by Mail or Absentee."

Members present: Subcommittee Chair Zoe Lofgren, Reps. Charles A. Gonzalez, Susan A. Davis, Vernon J. Ehlers and Kevin McCarthy.

Witnesses

1. Mr. John Fortier, American Enterprise Institute
2. Mr. Warren Harrison, former Director of Elections for the State of Texas

MARKUP

On Wednesday, April 2, 2008, the Committee met to mark up H.R. 281. The Committee favorably reported H.R. 281, as amended, by a voice vote, a quorum being present.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

COMMITTEE RECORD VOTES

Clause 3(b) of House rule XIII requires that the results of each record vote on an amendment or motion to report, together with the name of those voting for and against, to be printed in the committee report.

Record votes on amendments to H.R. 281

The first recorded vote of the markup was Mr. Ehlers' Amendment #2, which would require a State, prior to providing an individual with an absentee ballot, to require that individual to sign, under penalty of perjury, an attestation that the voter has requested the ballot free from coercion and is casting the ballot freely and without undue influence. The vote was 3–4 and the amendment was not agreed to.

Member	Ayes	Noes	Present
Mr. Brady		X	
Ms. Lofgren			
Mr. Capuano		X	
Mr. Gonzalez			
Mrs. Davis (CA)		X	
Mr. Davis (AL)		X	
Mr. Ehlers	X		
Mr. Lungren	X		
Mr. McCarthy	X		
Total	3	4	

The Committee then voted on Mr. Ehlers' Amendment #3, which would have preserved state conditions and requirements concerning the eligibility of an individual to obtain an absentee ballot by mail that are in effect as of the effective date of the Act. The vote was 3–4 and the amendment was not agreed to.

Member	Ayes	Noes	Present
Mr. Brady		X	
Ms. Lofgren			
Mr. Capuano		X	
Mr. Gonzalez			
Mrs. Davis (CA)		X	
Mr. Davis (AL)		X	
Mr. Ehlers	X		
Mr. Lungren	X		
Mr. McCarthy	X		
Total	3	4	

Amendments that were withdrawn

After discussion in the Committee, Mr. McCarthy withdrew his Amendment #2, which would have struck the language in Section 3 of the bill and would have inserted the following: "If an indi-

vidual in a State is eligible to obtain a ballot to cast a vote in an election for Federal Office, the State may not impose any additional conditions or requirements on the eligibility of the individual to obtain the ballot in advance of the election for purposes of casting the ballot by mail, except to the extent that the State imposes a deadline for requesting the ballot and related voting materials from the appropriate State or local election official and to the extent that the State considers necessary to prevent the occurrence of voter fraud." No vote was taken.

Amendments agreed to by voice vote

The Committee voted to accept Mr. Ehlers' Amendment #1, which postponed the effective date of H.R. 281 until the year 2010. The Committee also voted to accept Mr. McCarthy's Amendment #1, which requires States to verify a voter's signature before it accepts and processes an absentee ballot submitted by an individual.

The Committee then voted to favorably report H.R. 281, as amended. The vote to report favorably was approved by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee states that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY

In compliance with clause 3(d)(1) of rule XIII, the Committee states that Article 1, Section 4 of the U.S. Constitution grants Congress the authority to make laws governing the time, place and manner of holding Federal elections.

EARMARK IDENTIFICATION

Pursuant to clause 9 of rule XXI, H.R. 281, the Universal Right to Vote by Mail Act, does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any committee on a bill or joint resolution to include a committee statement on the extent to which the bill or joint resolution is intended to preempt state or local law. H.R. 281 is intended to apply in all States and preempt laws to the contrary in their application to Federal elections.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the to the bill, the following estimate and comparison prepared by

the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

APRIL 8, 2008.

Hon. ROBERT A. BRADY,
Chairman, Committee on House Administration,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 281, the Universal Right to Vote by Mail Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford, who can be reached at 226–2860.

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 281—Universal Right To Vote by Mail Act of 2008

H.R. 281 would amend the Help America Vote Act of 2002 to require states, beginning in 2010, to allow eligible voters to request a mail-in ballot for all federal elections without having to provide a reason. States would also be required to verify the signature on the absentee ballot by cross-checking it with the voter's signature on the official list of registered voters. CBO estimates that implementing H.R. 281 would have no impact on the federal budget.

Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that enforce the constitutional rights of individuals. CBO has determined that H.R. 281 would fall within that exclusion because it would protect individuals' voting rights. Therefore, we have not reviewed the bill for mandates.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

Summary: H.R. 281 would amend the Help America Vote Act of 2002 to require states, beginning in 2010, to allow eligible voters to request a mail-in ballot for all federal elections without having to provide a reason. States would also be required to verify the signature on the absentee ballot by cross-checking it with the voter's signature on the official list of registered voters. CBO estimates that implementing H.R. 281 would have no impact on the federal budget.

Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that enforce the constitutional rights of individuals. CBO has determined that H.R. 281 would fall within that exclusion because it would protect individuals' voting rights. Therefore, we have not reviewed the bill for mandates.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

HELP AMERICA VOTE ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) * * *

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

* * * * * * *

TITLE III—UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS

Subtitle A—Requirements

Sec. 301. Voting systems standards.

* * * * * * *

Sec. 303. Computerized statewide voter registration list requirements and requirements for voters who register by mail.

Sec. 303A. Promoting ability of voters to vote by mail.

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TITLE III—UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS

Subtitle A—Requirements

* * * * * * *

SEC. 303A. PROMOTING ABILITY OF VOTERS TO VOTE BY MAIL.

(a) IN GENERAL.—If an individual in a State is eligible to cast a vote in an election for Federal office, the State may not impose any additional conditions or requirements on the eligibility of the individual to cast the vote in such election by mail, except as required under subsection (b) and except to the extent that the State imposes a deadline for requesting the ballot and related voting materials from the appropriate State or local election official and for returning the ballot to the appropriate State or local election official.

(b) REQUIRING SIGNATURE VERIFICATION.—A State may not accept and process an absentee ballot submitted by any individual with respect to an election for Federal office unless the State verifies the identification of the individual by comparing the individual's signature on the absentee ballot with the individual's signature on the official list of registered voters in the State, in accordance with such procedures as the State may adopt.

(c) EFFECTIVE DATE.—A State shall be required to comply with the requirements of this section with respect to the regularly scheduled general elections for Federal office held in November 2010 and each succeeding election for Federal office.

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TITLE IV—ENFORCEMENT

SEC. 401. ACTIONS BY THE ATTORNEY GENERAL FOR DECLARATORY AND INJUNCTIVE RELIEF.

The Attorney General may bring a civil action against any State or jurisdiction in an appropriate United States District Court for such declaratory and injunctive relief (including a temporary restraining order, a permanent or temporary injunction, or other order) as may be necessary to carry out the uniform and nondiscriminatory election technology and administration requirements under sections 301, 302, [and 303] *303, and 303A*.

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MINORITY VIEWS OF THE HONORABLE VERNON J. EHLERS AND THE HONORABLE DAN LUNGREN

H.R. 281, UNIVERSAL RIGHT TO VOTE BY MAIL ACT OF 2007

I. INTRODUCTION

On Wednesday, April 3, 2008, the Committee on House Administration ordered favorably reported to the House, by voice vote, H.R. 281, the "Universal Right to Vote by Mail Act of 2007" as amended. In our view, H.R. 281 unnecessarily abrogates states' rights, and opens the door to organized fraud.

II. KEY ISSUES

Preserving States' rights

The administration of elections in this country has always been the province of states and localities, and most of the elections involve predominately local and state offices and issues. We maintain that each state should decide for itself, to the greatest extent practicable, and consistent with the U.S. Constitution, the preferred method of selecting its elected officials and electors. While we fully support striving to improve the electoral process, the imposition of universal national standards is not the answer. Rather, improvements to the electoral process should be developed in concert with the states and localities, and not be thrust upon them, and we must recognize that there is no one-size-fits-all solution.

By contrast, H.R. 281 would preempt existing election laws in twenty-two states. We disagree with the characterization made by the bill's sponsor, Mrs. Davis, that these laws are an "antiquated patchwork." Rather, we believe that there is no panacea, and that nationalized standards for the administration of elections undermine the traditional role of states as laboratories of democracy. On a more practical level, state and local elections administrators are better positioned than the U.S. Congress to develop and implement election procedures to best serve their voters—what works best in California or Oregon may not best serve the voters of Kansas or Michigan.

Moreover, we are troubled by the concerns expressed to the Members of this Committee by the National Conference of State Legislatures (NCSL). State Legislatures are paying attention to this issue, and their concerns are well founded. It is natural that states would be concerned about being "forced to overhaul their standards, protocols and policies in a very short period of time and

with no appropriated federal dollars in place," and these concerns should be addressed.[1]

The adoption of the amendment offered by Mr. Ehlers, to postpone the effective date of this legislation until 2010, is merely one small step towards addressing these concerns. However, states whose laws are impacted by this legislation should be allowed to seek an extension of time to comply, in cases where such time is necessary for states to implement the safeguards necessary for expanded absentee voting.

We support the amendment offered by Mr. Ehlers, providing that notwithstanding any other provision of H.R. 281, any state may continue to enforce any condition or requirement concerning the eligibility of an individual to obtain an absentee ballot by mail. This amendment failed on a party line vote of 3–4.

Until the passage of the National Voter Registration Act (NVRA) in 1993, the federal government generally did not interfere with the administration of elections by state and local officials. However, long before the passage of NVRA, states implemented measures for the fair and efficient administration of elections, including absentee voting. For example, during the Civil War, twenty-six states passed laws allowing soldiers to vote absentee; and by 1924, all but three states had enacted absentee voting provisions. The federal government ought not to force states to abandon these measures. Instead, the federal government should strive to work with states to develop ways to improve election administration generally, including absentee ballots.

Finally, we question the finding of Congress that an inequity of voting rights exists in the Untied States because voters in some states have the universal right to vote by mail while voters in other states do not. Historically, the absentee ballot has always been viewed as a privilege, not an absolute right. As the U.S. Supreme Court explained, the right to vote is unquestionably basic to a democracy, but the right to an absentee ballot is not.[2] Preserving the rights of states to establish safeguards with respect to absentee voting does not interfere with the fundamental right to vote.

Preventing fraud

As with all aspects of election administration, the rules regarding absentee voting must be carefully assessed to ensure that the integrity of the electoral process is not sacrificed in the interest of expediency, and to this end, sufficient safeguards must be established. Our overriding concern is that legitimate votes may be cancelled out by fraudulent votes. This concern is particularly acute with respect to absentee voting, which inherently lacks the secrecy that is the hallmark of in-person voting.

Mail-in absentee voting is appropriate in cases where the voter would otherwise be unable to cast a ballot at the polls on Election Day, for example, the elderly, or overseas military service men and women. However, there is a genuine risk that the expansion of absentee voting may inadvertently create opportunities for those who

[1] Letter from the National Conference of State Legislatures to the Committee on House Administration, April 1, 2008.

[2] *Prigmore v. Renfro*, 356 F. Supp. 427, 432 (D.C.Ala., 1972), aff'd 410 U.S. 919, 93 S. Ct. 1369, 35 L.Ed.2d 582 (U.S.Ala. Feb 20, 1973).

would seek to systematically and in an organized fashion interfere with the electoral process. An examination of the legislative histories of states' absentee voting laws demonstrates that legislatures were concerned with the prevention of fraud when they enacted absentee voting requirements. Before forcing states to repeal these requirements, we must ensure that states are able to find other ways to address the potential for fraud and abuse.

We question the assertion that no evidence exists demonstrating that the potential for fraud in absentee balloting is greater than the potential for fraud by any other means of voting. When a ballot is cast someplace other than the traditional polling place, it is much more difficult to guarantee that the ballot is being cast by an eligible voter, that his or her selection is made without inappropriate interference, and that the voted ballot makes it safely back to the elections office to be counted. For example, in 1996, in Dodge County, Georgia, supporters of candidates for sheriff were found guilty of paying voters for their absentee ballots. And in 2005, in Benton Harbor, Michigan, an individual was accused of unlawful possession of absentee ballots, and attempting to improperly influence absentee voters.

We support the amendment offered by Mr. Ehlers, to require any state that offers no-excuse absentee voting to implement an attestation requirement under which a voter would sign a statement attesting that the ballot was requested voluntarily and without coercion, and that the ballot would be voted without outside influence. This amendment was, unfortunately, defeated by 3–4, again along party lines.

Let there be no mistake: the intent of Mr. Ehlers' amendment was not to impose a second signature requirement, nor to create an independent grounds to challenge an absentee ballot. Moreover, contrary to the assertions made in opposition to this amendment, an attestation requirement does not criminalize the victim of voter intimidation. Perjury is a specific intent crime, which means that the government must demonstrate the voter voluntarily made the false statement with knowledge of its falsity. Accordingly, a voter who has been forced to falsely sign an attestation requirement has not made that statement voluntarily, and therefore will not be prosecuted.

More importantly, an attestation requirement not only addresses the potential for fraud, but also draws attention to the solemnity of the act of casting a vote, reinforces the importance of secrecy of one's vote, and protects the freedom to vote as one desires. Therefore, we urge states that adopt so-called "no excuse" absentee voting to implement an attestation requirement to prevent improper casting of ballots.

III. CONCLUSION

In certain circumstances, absentee voting provides a means for those who would otherwise not be able to participate in the democratic process to cast a ballot. However, H.R. 281, a federal mandate requiring states to implement across-the-board "no excuse" absentee voting, raises fundamental questions about states' rights and preservation of the integrity of the electoral process.

VERNON J. EHLERS.
DANIEL E. LUNGREN.

APPENDIX A

RUTH Y. GOLDWAY
COMMISSIONER

April 1, 2008

The Honorable Robert A. Brady
Chairman, Committee on House Administration
1310 Longworth Building
Washington, DC. 20515

Chairman Brady:

I am writing to support HR 281, the Universal Right to Vote by Mail Act of 2007.

In my testimony before the House Committee on Administration on October 16, 2007, I pointed out that the U.S. Postal Service provides a reliable and trusted means of voting for many Americans. Further, the Postal Service is actively working with State and local election officials to make the Vote by Mail process simpler and more accountable.

Absentee ballots account for an increasing percentage of votes cast nationally, but there is great disparity in rates of participation between states which provide for no-excuse or universal absentee voting and those which require particular justification for each election. As I said in my testimony:

"Offering citizens the option of voting by mail provides significant advantages, including the potential to increase voter turnout for national, state, and local elections. Voters would not need to take time off from work, find transportation, locate the right polling place, get baby-sitters or rush through critical yet sometimes complicated ballot initiatives. (...) Voters appreciate the opportunity to read a ballot slowly in the privacy of their homes, and to drop it in the mail, exercising their voting franchise thoughtfully and carefully."

In my home state of California, which offers no-excuse or universal absentee voting, approximately half the votes in statewide elections are cast by mail, a percentage that has been steadily growing over time.

Legislation extending universal access to absentee voting in national elections beyond the 28 states where it is already in effect would increase participation, interest and greater confidence in the electoral process.

901 New York Avenue NW, Suite 200 | Washington, DC 20268-0001 | Phone: 202-789-6810 Fax: (202) 789-6883 | www.prc.gov

April 1, 2008

The Honorable Susan Davis
United States House of Representatives
Washington, D.C. 20515

Dear Representative Davis:

We are writing to ask you to support vital legislation in tomorrow's committee meeting – the Universal Right to Vote By Mail bill (HR 281). This legislation is simple. It requires that all voters in federal elections be given the opportunity to vote by mail (often called absentee voting) without undue burden or loss of privacy.

Currently, every state allows registered voters to vote by mail or absentee ballot. But many states put severe restrictions on that right – many of which intrude upon basic principles of privacy and dignity. All of the restrictions assume that election workers need to know, and voters need to disclose, personal information which will serve as a valid "excuse" for voters if they cannot be present at the polls on Election Day to cast a ballot in person. Below are just a few examples of state laws governing the right to vote by mail-in absentee ballot.

In Tennessee, if a voter is ill, the voter may only obtain an absentee ballot if a letter answering a list of seven questions is obtained by a physician.

In New York, voters must list their exact out of state location on Election Day if they are going to be out of state on a personal vacation.

In Virginia, a voter must indicate the exact hours of his or her work and the employer's name and address, list the nature of a the disability or illness, or explain the nature of the religious obligation which is keeping them from the polls.

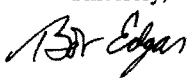
In Delaware, voters need a notary signature if they state that they are unable to vote due to religious obligation on Election Day.

Many state laws do not allow voters to receive an absentee ballot even if voters have jury duty or election day responsibilities.

These state laws which require voters to make an "excuse" about why they can't physically be present at the polls on election day and wish to vote by mail place unnecessary burdens on election workers and voters. Registered voters who need to vote by mail-in absentee ballot due to illness, family responsibilities work obligations, religious obligations, or civic obligation such as jury duty – should be able to do so simply by requesting a ballot. No "excuses" should have to be made. No privacy need be compromised.

Please vote in favor of the the basic, fair, common sense principles of HR 281 – the Universal Right to Vote By Mail Act.

Sincerely,



Bob Edgar
President
Common Cause

May 10, 2007

Unites States House of Representatives
Washington, DC 20515

Dear Member of Congress:

On behalf of the more than one million members and activists of People For the American Way (PFAW), we write in strong support of the Universal Right to Vote by Mail Act of 2007 (H.R. 281) introduced by Representative Susan Davis. This much needed legislation is about fairness, giving all voters the option to vote by mail, for any reason, in federal elections.

Electoral reform is a priority for PFAW and its sister Foundation (PFAWF), and we welcome efforts to remedy current flaws in the system in order to increase voters' faith and participation in our democratic process. As part of our Democracy Campaign and through our work in the Election Protection Coalition, PFAWF has been able to document the enormity of barriers to the ballot for thousands of voters across the country. Working with our numerous allied organizations, including Lawyers' Committee for Civil Rights Under Law (LCCRUL) and the NAACP, along with over 100 civil rights and voting rights organizations, PFAWF has been able to document the major problems that voters across the country have had leading up to and on Election Day, with over 9,000 incidents reported in 2006 alone. H.R. 281 would help address some of the problems voters have consistently encountered by making voting more convenient, leveling the playing field, and granting all voters the same opportunity to access the polls.

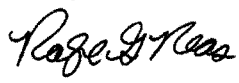
In twenty-six states and territories, voters are only eligible for mail-in (or absentee) ballots if they have certain excuses, such as being elderly, ill, out of town on Election Day, or engaged in military service, while voters in other states can vote by mail at will. H.R. 281 recognizes that many other circumstances frequently prevent voters from making it to the polls on Election Day, including work, family commitments, or other responsibilities. Accordingly, this bill allows every citizen to vote by mail when they are unable to make it to the polls and are otherwise ineligible for an absentee ballot.

By providing the option to vote by mail, H.R. 281 is particularly notable in its encouragement for, and honoring of, the time-honored ritual that brings American voters together in a common act of civic participation. H.R. 281 does not force voters to vote by mail – it simply gives voters the option to participate on their own timeline. Making this option available has overwhelming support among the American people. Studies show that support for voting by mail is consistent across nearly every demographic – including age, income level, race, education, employment status, geographic location, and party affiliation. Moreover, a recently conducted state poll shows that nearly 30% of voters said they would vote more often if given such an option. In fact, states that give voters the universal right to vote by mail experience up to 30% growth in the use of mail-in ballots.

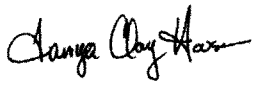
2000 M Street, NW ♦ Suite 400 ♦ Washington, DC 20036
Telephone 202.467.4999 ♦ Fax 202.293.2672 ♦ E-mail pfaw@pfaw.org ♦ Web site http://www.pfaw.org

H.R. 281 is timely because it reflects the needs and preferences of those who prefer to vote by mail. Not only does this encourage participation, but it also eases the strain on poll workers and shortens the long lines at polling places. Again, we commend Representative Susan Davis for introducing such a well-conceived bill that stays above partisan politics and attempts to engage as many people as possible in the electoral process. We urge all Members to join Representative Davis's attempts to pass H.R. 281 and make civic engagement in our elections easier, fair, and accessible for all people.

Sincerely,



Ralph G. Neas
President



Tanya Clay House
Director, Public Policy

April 23, 2007

Re: H.R. 281, Universal Right to Vote by Mail Act of 2007
H.R. 1667, Vote by Mail Act of 2007

Dear House Member:

We write to urge your support for two important bills, H.R. 281 and H.R. 1667, which will strengthen electoral participation by expanding the opportunity for voters to cast mail-in ballots. Both measures have been introduced by Rep. Susan Davis (California, 53rd District), a former president of the League of Women Voters of San Diego.

H.R. 281, the Universal Right to Vote by Mail Act of 2007, establishes the right of duly registered citizens to request an absentee ballot for any election that includes a contest for federal office. An increasing number of states – twenty-eight at this point – have removed "excuse requirements" for absentee voting, such as physical incapacity or absence from the county of registration on Election Day, which in turn triggers the opportunity to cast a mail-in ballot. Despite this trend, twenty-two states still maintain rules that disfavor no-excuse absentee voting. In an age in which the multiple demands of work and family are greater than ever, making it tougher and tougher for citizens to get to the polls on Election Day, the opportunity to conveniently cast a ballot from home via the mail can mean the difference between a vibrant democracy or a nation suffering continued, declining voter participation.

H.R. 1667, the Vote by Mail Act of 2007, provides funding assistance to state election authorities to encourage the adoption of all-mail elections. The bill also directs the Election Assistance Commission to identify "Best Practices" for the administration of vote by mail elections, and requires the Government Accountability Office to study the impact of all-mail elections on turnout, security, fairness and costs.

Absentee or "mail-in" voting represents our nation's fastest growing means for casting ballots. Already, all or most voters in Oregon and Washington vote by mail. Since Oregon adopted vote by mail as its sole voting option in 1998, the state's turnout has increased, concerns about fraud have decreased, a complete paper trail exists for every election, recounts are non-controvertible and both major political parties have gained voters. In Colorado, counties are permitted to hold all-mail elections in off-year (non-partisan) elections. In Arizona, cities and towns can request permission from their counties to hold all-mail elections. A 2003 study (Southwell, University of Oregon)

found that 81% of Oregon voters preferred voting by mail over polling place elections. A 1997 Washington study by then-County Clerk (now Secretary of State) Sam Reed, found that all-mail elections significantly increased voter turnout and participation.

In November 2006, 41% of California voters cast absentee ballots, and in states including Arizona, New Mexico, Montana, Idaho, Colorado, Nevada, Hawaii and others, significant and growing percentages of the population are taking advantage of the opportunity to vote from home. In the past year, states such as Ohio and New Jersey have removed "excuse" requirements for absentee voting, and legislation to expand access to absentee voting is being considered in other state legislatures across the nation.

We the undersigned ask that you co-sponsor these two important pieces of legislation, and urge your support for their swift passage.

Sincerely,

William Burrus
President
American Postal Workers Union

Ted Keating
President
National Association of Postal Supervisors

Dale Goff
President
National Association of Postmasters of the United States

Charles F. Mapa
President
National League of Postmasters

John F. Hegarty
President
National Postal Mail Handlers Union

Donnie Pitts
President
National Rural Letter Carriers' Association

usan Davis :

National Association of Letter Carriers

May 2, 2007

William H. Young
President

100 Indiana Ave., NW
Washington, DC
20001-2144
202.393.4695
www.nalc.org

Fredric V. Rolando
Executive Vice President

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Director, Retired Members

Board of Trustees:
Ivory Brown Jr.
Chairman
Russell L. Reiter
Michael J. Gill

Affiliated with the AFL-CIO & Union Network International

Dear Representative:

On behalf of the 300,000 members of the National Association of Letter Carriers, I write to urge your support for two important bills, H.R. 281 and H.R. 1667, which will strengthen electoral participation by expanding the opportunity for voters to cast mail-in ballots. Both measures have been introduced by Rep. Susan Davis (California, 53rd District), a former president of the League of Women Voters of San Diego.

H.R. 281, the Universal Right to Vote by Mail Act of 2007, establishes the right of duly registered citizens to request an absentee ballot for any election that includes a contest for federal office. An increasing number of states – twenty-eight at this point – have removed "excuse requirements" for absentee voting, such as physical incapacity or absence from the county of registration on Election Day, which in turn triggers the opportunity to cast a mail-in ballot. Twenty-two states still maintain rules that disfavor no-excuse absentee voting. In an age in which the multiple demands of work and family are greater than ever, making it increasingly difficult for citizens to get to the polls on Election Day, the opportunity to conveniently cast a ballot from home via the mail can mean the difference between a vibrant democracy and a nation suffering anemic turnout and declining voter participation.

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Absentee or "mail-in" voting represents our nation's fastest growing means for casting ballots. Already, all or most voters in Oregon and Washington vote by mail. Since Oregon adopted vote by mail as its sole voting option in 1998, the state's turnout has increased and concerns about fraud have decreased. In addition, a complete paper trail exists for every election, recounts are non-controvertible and both major political parties have gained voters. In Colorado, counties are permitted to hold all-mail elections in off-year (non-partisan) elections. In Arizona, cities and towns can request permission from their counties to hold all-mail elections. A 2003 study (Southwell, University of Oregon) found that 81% of Oregon voters preferred voting by mail over polling place elections. A 1997 Washington study by then-County Clerk (now Secretary of State) Sam Reed, found that all-mail elections significantly increased voter turnout and participation.

The nations's letter carriers have been involved in the absentee ballot process from its inception and we have been honored to be entrusted with such a critical role in the democratic process. Our members have prided themselves on providing a safe and secure delivery service and we look forward to helping expand the opportunity for every citizen to cast a ballot through the conveyance of the mail.

I ask that you co-sponsor these two important pieces of legislation, and urge your support for their swift passage.

Sincerely,

William H. Young

William H. Young
President

WASHINGTON
LEGISLATIVE OFFICE

February 27, 2008

The Honorable Susan Davis
1526 Longworth House Office Building
U.S. House of Representatives
Washington, DC 20515

Re: ACLU Applauds H.R. 281, The Universal Right to Vote by Mail Act of 2007

AMERICAN CIVIL
LIBERTIES UNION
WASHINGTON
LEGISLATIVE OFFICE
915 15th STREET, NW, 6TH FL
WASHINGTON, DC 20005
T/202.544.1681
F/202.546.0738
WWW.ACLU.ORG

Caroline Fredrickson
DIRECTOR

NATIONAL OFFICE
125 BROAD STREET, 18TH FL.
NEW YORK, NY 10004-2400
T/212.549.2500

OFFICERS AND DIRECTORS
NADINE STROSSEN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

RICHARD ZACKS
TREASURER

Dear Representative Davis:

On behalf of the American Civil Liberties Union (ACLU), over half a million members and activists, and fifty-three affiliates nationwide, we are writing to express our support for your bill, H.R. 281, the "Universal Right to Vote by Mail Act of 2007." H.R. 281 would ensure that all Americans have an equal opportunity to vote by mail in federal elections for any reason. This bill would give all voters the choice of voting by mail by eliminating the unnecessary, burdensome, and often intrusive requirements that some states impose on voters requesting absentee ballots.

H.R. 281 recognizes that many Americans have work, family, or other commitments that might prevent them from getting to the polling place on Election Day. Currently, 29 states allow universal absentee voting, which permits any voter to request a mail-in ballot without providing a reason for the request. However, voters in 21 states and the District of Columbia must provide a qualifying "excuse" in order to vote by mail. Requirements to justify the "excuse" vary by state, but can go so far as to require that the voter produce a notary's seal, a doctor's note, or signatures from multiple witnesses to request an absentee ballot. Other states require a voter to list work hours, explain a religious obligation, or detail the nature of a disability in order to prove that the voter fits into one of the state's "excuse" categories.

Financial burdens and disclosure of personal information should not be required for citizens to exercise their right to vote. Some voters should not be more heavily burdened than others simply because of their location, while voters in other states can conveniently, without question or cost, request a mail-in. A federal law is needed to guarantee that all citizens have the same opportunity to vote by mail.

H.R. 281 provides all voters with the option of voting by mail while fully preserving the existing alternative of voting at the polls on Election Day. It provides an important supplement to, not replacement for, in-person voting. Under this bill, voters who choose to vote by mail could take more time to consider the candidates and ballot initiatives without waiting in lines or rushing through the ballot. Moreover, the bill does not impose any additional requirements on states – it simply removes restrictions on voting by mail. All

states and the District of Columbia already have absentee voting procedures in place and could retain their present deadline requirements.

Giving voters this choice of voting in person or by mail would likely result in an increase in turnout that would benefit both political parties. In the 2004 election, states permitting universal access to mail-in ballots saw a 6.7% increase in voter turnout, which was consistent for both Democrats and Republicans. In a recently conducted state poll, nearly 30% of voters said they would vote more often if given the option to vote by mail.

The federal government has a significant interest in making sure every eligible voter who wants to cast a ballot in a federal election has that opportunity. H.R. 281 is an important step toward expanding voting opportunities in federal elections by giving all voters the same ability to vote by mail, regardless of state residency. We applaud your legislation and encourage Members of Congress to support it.

If you have any questions please contact Deborah J. Vagins at (202) 715-0816 or dvagins@dcaclu.org.

Sincerely,

Michael W. Macleod-Ball
Chief Legislative and Policy Counsel

Deborah J. Vagins
Policy Counsel for Civil Rights
and Civil Liberties

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